

By: Wray

H.B. No. 2435

A BILL TO BE ENTITLED

AN ACT

relating to public improvement projects financed by or through assessments levied on property by municipalities and counties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter C, Chapter 262, Local Government Code, is amended by adding Section 262.0242 to read as follows:

Sec. 262.0242. MANDATORY EXEMPTIONS: PUBLIC IMPROVEMENTS PARTIALLY FUNDED BY SPECIAL ASSESSMENTS. The competitive bidding and competitive proposal procedures prescribed by this subchapter do not apply to contracts relating to a public improvement, including paving, drainage, or street widening, and matters related to the public improvement if at least one-third of the cost of the public improvement is to be paid by or through special assessments levied on property that will benefit from the improvement.

SECTION 2. Sections 372.003(b), (b-1), and (c), Local Government Code, are amended to read as follows:

(b) A public improvement project may include:

- (1) landscaping;
- (2) erection of fountains, distinctive lighting, and signs;
- (3) acquiring, constructing, improving, widening, narrowing, closing, or rerouting of sidewalks or of streets, any other roadways, or their rights-of-way;
- (4) construction or improvement of pedestrian malls;

- 1 (5) acquisition and installation of pieces of art;
- 2 (6) acquisition, construction, or improvement of
- 3 libraries;
- 4 (7) acquisition, construction, or improvement of
- 5 off-street parking facilities;
- 6 (8) acquisition, construction, improvement, or
- 7 rerouting of mass transportation facilities;
- 8 (9) acquisition, construction, or improvement of
- 9 water, wastewater, or drainage facilities or improvements;
- 10 (10) the establishment or improvement of parks and
- 11 recreational facilities;
- 12 (11) acquisition, construction, or improvement of a
- 13 facility related to a water feature, including a recreational
- 14 lagoon or artificial body of water used for:
- 15 (A) aesthetic purposes; or
- 16 (B) swimming, boating, or other aquatic
- 17 recreational sports or activities;
- 18 (12) projects similar to those listed in Subdivisions
- 19 (1)-(11) [~~(1)-(10)~~];
- 20 (13) [~~(12)~~] acquisition, by purchase or otherwise, of
- 21 real property, including a right-of-way, in connection with an
- 22 authorized improvement;
- 23 (14) [~~(13)~~] special supplemental services for
- 24 improvement and promotion of the district, including services
- 25 relating to advertising, promotion, health and sanitation, water
- 26 and wastewater, public safety, security, business recruitment,
- 27 development, recreation, and cultural enhancement;

1 (15) [~~(14)~~] payment of expenses incurred in the
2 establishment, administration, and operation of the district; and

3 (16) [~~(15)~~] the development, rehabilitation, or
4 expansion of affordable housing.

5 (b-1) Payment of expenses under Subsection (b)(15)
6 [~~(b)(14)~~] may also include expenses related to the operation and
7 maintenance of a public improvement project [~~mass transportation~~
8 ~~facilities~~].

9 (c) A public improvement project may be limited to the
10 provision of the services described by Subsection (b)(14)
11 [~~(b)(13)~~].

12 SECTION 3. Section 372.0035(a), Local Government Code, is
13 amended to read as follows:

14 (a) This section applies only to:

15 (1) a municipality that:

16 (A) has a population of more than 650,000 and
17 less than two million; ~~or~~

18 (B) has a population of more than 325,000 and
19 less than 625,000; or

20 (C) has a population of at least 190,000 and no
21 part of which is located in a county with a population of at least
22 150,000; and

23 (2) a public improvement district established under
24 this subchapter and solely composed of territory in which the only
25 businesses are:

26 (A) hotels with 100 or more rooms ordinarily used
27 for sleeping, if the district is established by a municipality

1 described by Subdivision (1)(A); ~~[or]~~

2 (B) hotels with 75 or more rooms ordinarily used
3 for sleeping, if the district is established by a municipality
4 described by Subdivision (1)(B); or

5 (C) hotels with 10 or more rooms ordinarily used
6 for sleeping, if the district is established by a municipality
7 described by Subdivision (1)(C).

8 SECTION 4. Section 372.010(c), Local Government Code, is
9 amended to read as follows:

10 (c) Actual construction of an improvement other than an
11 improvement financed under Section 372.152 may not begin until
12 after the 20th day after the date the authorization takes effect and
13 may not begin if during that 20-day period written protests signed
14 by at least two-thirds of the owners of record of property within
15 the improvement district or by the owners of record of property
16 comprising at least two-thirds of the total area of the district are
17 filed with the municipal or county secretary or other officer
18 performing the duties of the municipal or county secretary. A
19 person whose name appears on a protest may withdraw the name from
20 the protest at any time before the governing body of the
21 municipality or county convenes to determine the sufficiency of the
22 protest.

23 SECTION 5. Sections 372.012, 372.019, and 372.020, Local
24 Government Code, are amended to read as follows:

25 Sec. 372.012. AREA OF DISTRICT; INCREASE OF AREA. (a) The
26 area of a public improvement district to be assessed according to
27 the findings of the governing body of the municipality or county may

be less than the area described in the proposed boundaries stated by the notice under Section 372.009. The area to be assessed may not include property not described by the notice as being within the proposed boundaries of the district unless a hearing is held to include the property and notice for the hearing is given in the same manner as notice under Section 372.009.

(b) The governing body of the municipality or county may call and hold a public hearing in the same manner as a hearing under Section 372.009 for the purpose of increasing the area of a public improvement district if a petition requesting the increase is filed by the owners of property to be added to the district in the manner provided by Section 372.005, considering only the area to be added for the purposes of Sections 372.005(b) and (b-1). After the hearing, the governing body may by ordinance or order increase the area of the district in accordance with the increase proposed in the hearing.

(c) If the governing body of the municipality or county increases the area of a public improvement district under Subsection (b) and the governing body has levied an assessment on property in the district before the increase, the governing body may:

(1) make a supplemental assessment under Section 372.019; or

(2) reapportion the existing assessment in a manner consistent with Section 372.015 after notice is given and a hearing is held in the same manner as required by Sections 372.016 and 372.017.

1 Sec. 372.019. SUPPLEMENTAL ASSESSMENTS. (a) After notice
2 and a hearing in accordance with Subsection (b), the governing body
3 of the municipality or county may make supplemental assessments to:

4 (1) correct omissions or mistakes in the assessment
5 relating to the total cost of the improvement; or

6 (2) levy an assessment on property added to the public
7 improvement district under Section 372.012.

8 (b) Notice must be given and the hearing held under this
9 section in the same manner as required by Sections 372.016 and
10 372.017.

11 Sec. 372.020. REASSESSMENT. The governing body of the
12 municipality or county may make a reassessment or new assessment of
13 a parcel of land if:

14 (1) a court of competent jurisdiction sets aside an
15 assessment against the parcel;

16 (2) the governing body determines that the original
17 assessment is excessive; ~~[or]~~

18 (3) on the written advice of counsel, the governing
19 body determines that the original assessment is invalid; or

20 (4) the governing body increases the area of the
21 public improvement district under Section 372.012.

22 SECTION 6. Section 372.021(c), Local Government Code, is
23 amended to read as follows:

24 (c) The fund may be used to:

25 (1) pay the costs of planning, administration, and an
26 improvement authorized by this subchapter;

27 (2) prepare preliminary plans, studies, and

1 engineering reports to determine the feasibility of an improvement;
2 and

3 (3) if ordered by the governing body of the
4 municipality or county, pay the initial cost of the improvement
5 until temporary notes, time warrants, or general obligation bonds
6 or revenue ~~[improvement]~~ bonds have been issued and sold.

7 SECTION 7. Section 372.022, Local Government Code, is
8 amended to read as follows:

9 Sec. 372.022. SEPARATE FUNDS. If bonds are issued under
10 this chapter, a separate public improvement district fund shall be
11 created in the municipal or county treasury for each
12 district. Proceeds from the sale of bonds, temporary notes, and
13 time warrants, and other sums appropriated to the fund by the
14 governing body of the municipality or county shall be credited to
15 the fund. The fund may be used solely to pay costs incurred in
16 making an improvement. When an improvement is completed, the
17 balance of the part of the assessment that is for the improvement
18 ~~[improvements]~~ shall be transferred to the fund established for the
19 retirement of bonds.

20 SECTION 8. Sections 372.023(a) and (e), Local Government
21 Code, are amended to read as follows:

22 (a) Costs of improvements may be paid or reimbursed by any
23 combination of the methods described by this section if the
24 improvements are dedicated, conveyed, leased, or otherwise
25 provided to or for the benefit of:

26 (1) a municipality or county;

27 (2) this state, a political subdivision of this state,

or other entity exercising the powers granted under this subchapter as authorized by other law; ~~[or]~~

(3) an entity created or operating under Section 52(b)(1) or (2), Article III, or Section 59, Article XVI, Texas Constitution;

(4) a district created and operating under Chapter 65, Water Code;

(5) an entity otherwise authorized under the laws of this state to own the improvements, operate the improvements, and, as applicable, provide services using the improvements; or

(6) an entity that:

(A) is approved by the governing body of an entity described by Subdivision (1), ~~[or]~~ (2), (3), (4), or (5); and

(B) is authorized by order, ordinance, resolution, or other official action to act for an entity described by Subdivision (1), ~~[or]~~ (2), (3), (4), or (5).

(e) The interest rate on unpaid amounts due under an installment sales contract, reimbursement agreement, temporary note, or time warrant described by Subsection (d):

(1) may not exceed, for a period of not more than seven ~~[five]~~ years, as determined by the governing body of the municipality or county, five percent above the highest average index rate for tax-exempt revenue bonds reported in a daily or weekly bond index approved by the governing body and reported in the month before the date the obligation was incurred; and

(2) after the period described by Subdivision (1), may not exceed two percent above the bond index rate described by

1 Subdivision (1).

2 SECTION 9. Section 372.026, Local Government Code, is
3 amended by amending Subsections (a), (b), and (f) and adding
4 Subsection (g) to read as follows:

5 (a) In this section, "obligation" means bonds, temporary
6 notes, time warrants, or an obligation under:

7 (1) an installment sale contract or reimbursement
8 agreement; or

9 (2) an agreement entered into under Subsection (f).

10 (b) For the payment of obligations issued or agreed to under
11 this subchapter and the payment of principal, interest, and any
12 other amounts required or permitted in connection with the
13 obligations, the governing body of the municipality or county may
14 pledge:

15 (1) all or part of the income from improvements
16 financed under this subchapter, including income received in
17 installment payments under Section 372.023; or

18 (2) for a municipality, tax increment revenue
19 generated from ad valorem and sales taxes imposed in a reinvestment
20 zone:

21 (A) designated by the municipality under Chapter
22 311, Tax Code; and

23 (B) located wholly or partly within the
24 boundaries of the public improvement district.

25 (f) The governing body may enter into an agreement with an
26 entity described by Subsection (g) [~~a corporation created by the~~
27 ~~municipality or county under the Texas Constitution or other law]~~

that provides for payment of amounts pledged under this section to the entity [~~corporation~~] to secure indebtedness issued by the entity [~~corporation~~] to finance an improvement project, including indebtedness to pay capitalized interest and a reserve fund permitted by this subchapter for revenue or general obligation bonds issued under this subchapter and indebtedness issued to pay the entity's [~~corporation's~~] costs of issuance. In addition, the agreement may [~~provide that~~]:

(1) for an agreement with a corporation, provide that the corporation is responsible for managing the district; or

(2) designate the entity that will hold title to the [~~one or more~~] improvements under the agreement, which may include an entity described by Section 372.023(a) [will be held by the ~~corporation~~].

(g) The governing body of the municipality or county may enter into an agreement described by Subsection (f) only with:

(1) a corporation created by a municipality or county under the Texas Constitution or other law;

(2) a corporation created under Subchapter D, Chapter 431, Transportation Code; or

(3) a political subdivision, instrumentality, or entity created and authorized to issue bonds secured by pledged revenue from a municipality or county.

SECTION 10. Section 372.027(a), Local Government Code, is amended to read as follows:

(a) Revenue bonds issued under this subchapter may be refunded or refinanced by the issuance of refunding bonds, under

1 terms or conditions set forth in ordinances, ~~[or]~~ orders, or
 2 resolutions of the municipality, ~~[or]~~ county, or other entity
 3 issuing the bonds. The provisions of this subchapter applying
 4 generally to revenue bonds, including provisions related to the
 5 issuance of those bonds, apply to refunding bonds authorized by
 6 this section. The refunding bonds may be sold and delivered in
 7 amounts necessary for the principal, interest, and any redemption
 8 premium of the bonds to be refunded, on the date of the maturity of
 9 the bond or any redemption date of the bond. Refunding bonds may be
 10 issued in a principal amount in excess of the bonds to be refunded.

11 SECTION 11. Section 372.152(a), Local Government Code, is
 12 amended to read as follows:

13 (a) General ~~[The governing body of a municipality or county~~
 14 ~~may issue and sell general]~~ obligation bonds or revenue bonds to
 15 reimburse a developer for the cost of a public improvement may be
 16 issued and sold in accordance with this chapter if:

17 (1) the public improvement is located in a public
 18 improvement district created on or after January 1, 2005;

19 (2) the public improvement is ~~[has been]~~ dedicated to
 20 and accepted by the municipality, ~~[or]~~ county, or entity designated
 21 to receive the improvement under Section 372.023(a); and

22 (3) before the public improvement was dedicated to and
 23 accepted by the municipality or county, the governing body of the
 24 municipality or county entered into an agreement with the developer
 25 to pay for the public improvement.

26 SECTION 12. Section 5.014(a), Property Code, is amended to
 27 read as follows:

1 (a) A seller of residential real property that is located in
2 a public improvement district established under Subchapter A,
3 Chapter 372, Local Government Code, or Chapter 382, Local
4 Government Code, and that consists of not more than one dwelling
5 unit located in this state shall give to the purchaser of the
6 property a written notice that reads substantially similar to the
7 following:

8 NOTICE OF OBLIGATION TO PAY PUBLIC IMPROVEMENT DISTRICT ASSESSMENT
9 TO (municipality or county levying assessment) CONCERNING THE
10 PROPERTY AT (street address)

11 As a purchaser of this parcel of real property you are
12 obligated to pay an assessment to [(a)] municipality or county
13 levying assessment) for an improvement project undertaken by a
14 public improvement district under Subchapter A, Chapter 372, Local
15 Government Code, or Chapter 382, Local Government Code. ~~[The~~
16 ~~assessment may be due annually or in periodic installments.]~~ More
17 information concerning the amount of the assessment and the due
18 dates of that assessment may be obtained from [(the)] municipality
19 or county levying [the] assessment).

20 The total unpaid principal amount of the assessment levied
21 against this parcel is (dollar amount) which may be paid in one lump
22 sum or in annual installments over (number of years). If paid in
23 annual installments, the unpaid principal amount of the assessment
24 bears interest at (percentage) and includes additional charges in
25 connection with administrative expenses associated with the public
26 improvement district. The amount of the assessment is subject to
27 change, but the principal amount of the assessment may not be

1 increased without a public hearing.

2 YOUR FAILURE TO PAY THE ASSESSMENTS COULD RESULT IN A LIEN ON
3 AND THE FORECLOSURE OF YOUR PROPERTY. ~~[The amount of the~~
4 ~~assessments is subject to change. Your failure to pay the~~
5 ~~assessments could result in a lien on and the foreclosure of your~~
6 ~~property.]~~

7 Date: _____

8 Signature of Purchaser

9 SECTION 13. This Act takes effect immediately if it
10 receives a vote of two-thirds of all the members elected to each
11 house, as provided by Section 39, Article III, Texas Constitution.
12 If this Act does not receive the vote necessary for immediate
13 effect, this Act takes effect September 1, 2017.